

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IAN DeFAVIO

Plaintiff,

vs.

**COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

_____ /

CIVIL ACTION NO. 01-CV-74238-DT

DISTRICT JUDGE AVERN COHN

MAGISTRATE JUDGE MONA K. MAJZOUN

REPORT AND RECOMMENDATION

This Court recommends that Defendant's Unopposed Motion for Summary Judgment be **GRANTED.**

PROCEDURAL HISTORY

This is an action for judicial review of the final decision by the Commissioner of Social Security that the Plaintiff was not under a disability from 1983 onwards for purposes of the Social Security Act. 42 U.S.C. §§ 423, 1382. Plaintiff originally filed an action for review of the Commissioner's decision in 2001. On March 12, 2002, the parties filed a stipulation to remand Plaintiff's application to an ALJ for reconsideration. On April 16, 2004 prior to a scheduled administrative hearing, Plaintiff wrote a letter to the ALJ indicating that he wanted to cancel the hearing because "I am currently receiving SSI and don't wish to pursue the old one [referring to the instant application for benefits]." (Tr. 88).

On February 14, 2006 Defendant filed a motion to reopen the instant case. Defendant's Motion to Dismiss is now unopposed and should be **GRANTED.**

Either party to this action may object to and seek review of this Report and Recommendation, but must act within ten (10) days of service of a copy hereof as provided for in

28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing objections which raise some issues but fail to raise others with specificity will not preserve all objections that party might have to this Report and Recommendation. *Willis v. Secretary*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Rule 72.1(d)(2) of the *Local Rules of the United States District Court for the Eastern District of Michigan*, a copy of any objection must be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than five (5) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

Dated: June 14, 2006

s/ Mona K. Majzoub
 MONA K. MAJZOUB
 UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this Report and Recommendation was served upon Ian DeFavio and Counsel of Record on this date.

Dated: June 14, 2006

s/ Lisa C. Bartlett
 Courtroom Deputy

